| | 1 | |
|----|---|--|
| 1 | HAROLD G. BECKS, State Bar No. 5912 | 26 |
| 2 | hbecks@beckslaw.com DOUGLAS L. DAY, State Bar No. 92581 | |
| 3 | dougday@beckslaw.com HAROLD G. BECKS & ASSOCIATES | |
| | 3250 Wilshire Boulevard Suite 708 | |
| 4 | Los Angeles, California 90010 Telephone: (213) 385-9852 | |
| 5 | Fax: (213) 385-1370 | |
| 6 | Attorneys for Defendants | |
| 7 | COUNTY OF LOS ANGELES; SHERIFI PATRICK MAXWELL; CAPTAIN JACK | K EWELL; SERGEANT SEAN BURKE; |
| 8 | DEPUTY ANTHONY GEISBAEUER; D EDSON SALAZAR; DEPUTY DONALI | O MCNAMARA; DEPUTY STEVEN |
| 9 | PRATT; DEPUTY IAN STADE; DEPUT JAMES WHEELER | Y DANIEL WELLE; AND DEPUTY |
| 10 | WINDS WILDERS | |
| | UNITED STATES | DISTRICT COURT |
| 11 | CENTRAL DISTRIC | CT OF CALIFORNIA |
| 12 | | |
| 13 | DAWN SOARES, TIFFANY | CASE NO.: 2:17-cv-00924 RGK-AS |
| 14 | SOARES, ALISSA VARNEDOE, JAYDA MACCASKIE AS MOTHER | Assigned to Hon. R. Gary Klausner |
| 15 | AND NATURAL GUARDIAN FOR | Assigned to Hon. R. Gary Klausher |
| 16 | MINOR CHILDREN "J.V." AND "S.V.", CHILDREN OF DECEDENT, | |
| 17 | AND SUCCESSORS OF INTEREST, HEIRS. | DEFENDANTS' STATEMENT OF |
| | | UNCONTROVERTED FACTS |
| 18 | Plaintiffs, | [Filed Concurrently With Motion for |
| 19 | V. | Partial Summary Judgment, Declaration of Douglas L. Day Re Evidence; and |
| 20 | COUNTY OF LOS ANGELES, SHERIFF JIM McDONNELL, | [Proposed] Order] |
| 21 | CAPTAIN JACK EWELL, | |
| 22 | SERGEANT SEAN BURKE, DEPUTY ANTHONY GEISBAUER, DEPUTY | |
| 23 | JUAN RODRIGUEZ, DEPUTY EDSON SALAZAR, DEPUTY | DATE: April 16, 2018 TIME: 9:00 a.m. |
| 24 | DONALD MCNAMARA, DEPUTY STEVEN PRATT, DEPUTY IAN | CTRM: 850, 8 th Floor |
| | STADE, DEPUTY DANIEL WELLE, | |
| 25 | DEPUTY WHEELER; and DOES 1 - 10, | |
| 26 | Defendants. | |
| 27 | | |
| I | 1 | |

Defendants COUNTY OF LOS ANGELES; SHERIFF JIM MCDONNELL; COMMANDER PATRICK MAXWELL; CAPTAIN JACK EWELL; SERGEANT SEAN BURKE; DEPUTY ANTHONY GEISBAEUER; DEPUTY JUAN RODRIGUEZ; DEPUTY EDSON SALAZAR; DEPUTY DONALD MCNAMARA; DEPUTY STEVEN PRATT; DEPUTY IAN STADE; DEPUTY DANIEL WELLE; AND DEPUTY JAMES WHEELER ("Defendants") file the following Statement of Uncontroverted Facts:

| 9 | Uncontroverted Facts | Source | Plaintiff's | Plaintiff's |
|------------|-----------------------------|----------------------------|-------------|-------------|
| | | | Response | Evidence |
| 10 | 1. Plaintiffs | 1. First Amended | | |
| 11 | identified no | Complaint | | |
| | official policy, | ("FAC"), ¶ 52- | | |
| 12 | practice or custom | 56 (Docket | | |
| 13 | of the County of | No. 54). | | |
| | Los Angeles. | | | |
| 14 | | Defendant | | |
| 15 | | Sheriff Jim | | |
| 1. | | McDonnell | | |
| 16 | | Special | | |
| 17 | | Interrogatories | | |
| 18 | | to Plaintiff, | | |
| 10 | | Alissa | | |
| 19 | | Varnedoe, Set | | |
| 20 | | One, attached | | |
| | | to Declaration | | |
| 21 | | of Douglas L. | | |
| $_{22} \ $ | | Day ("Day | | |
| | | Decl.") as Exhibit "A". | | |
| 23 | | EXIIIUIT A. | | |
| 24 | | Plaintiff Alissa | | |
| | | Varnedoe's | | |
| 25 | | Responses to | | |
| 26 | | Defendant | | |
| 27 | | Sheriff Jim | | |
| 27 | | SHOTH JIII | | |

| ı [| Uncontroverted Facts | Source | Plaintiff's | Plaintiff's |
|-------------------------|---------------------------------------|----------------------------|-------------|-------------|
| | | | Response | Evidence |
| 2 [| | McDonnell's | | |
| , | | Special | | |
| . | | Interrogatories | | |
| . | | – Set One, | | |
| 5 | | attached to | | |
| $\ \ $ | | Day Decl. as | | |
| | | Exhibit "B". | | |
| | 0 DI : ::CC | O T' (A 1 1 | | |
| $\ \ $ | 2. Plaintiffs | 2. First Amended | | |
| | identified no | Complaint | | |
| اا ۱ | official policy, | ("FAC"), ¶ 52- | | |
| $\ \ $ | practice or custom | 56 (Docket | | |
| | of the County of | No. 54). | | |
| . | Los Angeles that is unconstitutional. | Defendant | | |
| 2 | is unconstitutional. | Sheriff Jim | | |
| | | McDonnell | | |
| 3 | | Special | | |
| ı | | Interrogatories | | |
| . | | to Plaintiff, | | |
| 5 | | Alissa | | |
| 5 | | Varnedoe, Set | | |
| $, \parallel \parallel$ | | One, attached | | |
| | | to Declaration | | |
| 3 | | of Douglas L. | | |
| $\ $ | | Day ("Day | | |
| | | Decl.") as | | |
| | | Exhibit "A". | | |
| | | | | |
| Ш | | Plaintiff Alissa | | |
| ; | | Varnedoe's | | |
| ; | | Responses to | | |
| Ш | | Defendant | | |
| ا ا | | Sheriff Jim | | |
| ; | | McDonnell's | | |
| . | | Special | | |
| | | Interrogatories | | |
| , <u> </u> | | Set One, | | |

| 1 | Uncontroverted Facts | Source | Plaintiff's Response | Plaintiff's Evidence |
|--------|-----------------------------|---------------------------|-------------------------|-------------------------|
| 2 | | attached to | • | |
| 3 | | Day Decl. as | | |
| 4 | | Exhibit "B". | | |
| * 5 | 3. Plaintiff failed to | 3. First Amended | | |
| ' | establish any | Complaint | | |
| 5 | training program | ("FAC"), ¶ 52- | | |
| , | of the County of | 56 (Docket | | |
| | Los Angeles or the | No. 54). | | |
| 3 | Los Angeles | , | | |
| , | County Sheriff's | Defendant | | |
| | Department | Sheriff Jim | | |
|) | pertaining to the | McDonnell | | |
| 1 | Special | Special | | |
| | Enforcement | Interrogatories | | |
| 2 | Bureau or the | to Plaintiff, | | |
| , | SWAT Team that | Alissa | | |
| , | is inadequate. | Varnedoe, Set | | |
| • | | One, attached | | |
| 5 | | to Day Decl. | | |
| 5 | | as Exhibit "A". | | |
| , | | Plaintiff Alissa | | |
| 3 | | Varnedoe's | | |
| | | Responses to | | |
|) | | Defendant | | |
|) | | Sheriff Jim | | |
| | | McDonnell's | | |
| L | | Special | | |
| 2 | | Interrogatories | | |
| | | - Set One, | | |
| | | attached to | | |
| . | | Day Decl. as Exhibit "B". | | |
| | | EXIIIUIT D. | | |
| | 4. Plaintiff has failed | 4. First Amended | | |
| 6 | to establish any | Complaint | | |
| 7 | training program, | ("FAC"), ¶ 52- | | |

| 1 | Uncontroverted Facts | Source | Plaintiff's | Plaintiff's |
|----------|-----------------------------|----------------------------|-------------|-------------|
| | | | Response | Evidence |
| 2 | or lack thereof, on | 56 (Docket | | |
| 3 | the part of the | No. 54). | | |
| 4 | County of Los | D-f1 | | |
| | Angeles County | Defendant Sheriff Jim | | |
| 5 | Angeles County Sheriff's | McDonnell | | |
| 6 | Department | Special Special | | |
| 7 | pertaining to | Interrogatories | | |
| _′∥ | pertaining to the | to Plaintiff, | | |
| 8 | Special | Alissa | | |
| 9 | Enforcement | Varnedoe, Set | | |
| | Bureau or the | One, attached | | |
| 10 | SWAT Team that | to Day Decl. | | |
| 11 | amounts to | as Exhibit "A". | | |
| 12 | "deliberate | D1 ' .'.CC A1' | | |
| | indifference". | Plaintiff Alissa | | |
| 13 | | Varnedoe's Responses to | | |
| 14 | | Defendant | | |
| 15 | | Sheriff Jim | | |
| 15 | | McDonnell's | | |
| 16 | | Special | | |
| 17 | | Interrogatories | | |
| | | – Set One, | | |
| 18 | | attached to | | |
| 19 | | Day Decl. as | | |
| 20 | | Exhibit "B". | | |
| | 5. Plaintiff has failed | 5. First Amended | | |
| 21 | to establish the | Complaint | | |
| 22 | inadequacy of any | ("FAC"), ¶ 52- | | |
| 23 | training program | 56 (Docket | | |
| | on the part of the | No. 54). | | |
| 24 | County of Los | , | | |
| 25 | Angeles or the Los | Defendant | | |
| 26 | Angeles County | Sheriff Jim | | |
| | Sheriff's | McDonnell | | |
| 27 | Department | Special | | |

| Uncontroverted Facts | Source | Plaintiff's | Plaintiff's |
|-----------------------------|--|---|--|
| | T | Response | Evidence |
| _ | • | | |
| 1 | · | | |
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| | | | |
| constitutional | as Exhibit "A". | | |
| violation of | | | |
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| Piainuiis. | - | | |
| | | | |
| | McDonnell's | | |
| | Special | | |
| | Interrogatories | | |
| | – Set One, | | |
| | | | |
| | • | | |
| | EXIIIOII D. | | |
| 6. Plaintiff failed to | 6. Ninth Circuit | | |
| establish that an | Model Civil | | |
| official with final | Jury | | |
| policymaking | Instruction 9.6. | | |
| _ | | | |
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| Plaintiffs as to be | | | |
| the moving force | | | |
| that caused the | | | |
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| _ | • • | | |
| | | | |
| managing the jails | 283 (9 th Cir. | | |
| | pertaining to the Special Enforcement Bureau or the SWAT Team that caused any constitutional violation of Decedent Leroy Varnedoe or Plaintiffs. 6. Plaintiff failed to establish that an official with final policymaking authority caused the deprivation of the rights of Decedent and Plaintiffs as to be the moving force that caused the ultimate injury. 7. The Los Angeles County Sheriff is the final policymaker for | pertaining to the Special Enforcement Bureau or the SWAT Team that caused any constitutional violation of Decedent Leroy Varnedoe or Plaintiffs. 6. Plaintiff failed to establish that an official with final policymaking authority caused the deprivation of the rights of Decedent and Plaintiffs as to be the moving force that caused the ultimate injury. 7. The Los Angeles County Sheriff is the final policymaker for Paintage to Plaintiff, Alissa Varnedoe, Set One, attached to Day Decl. as Exhibit "A". 6. Plaintiff failed to establish that an official with final policymaking authority caused the deprivation of the rights of Decedent and Plaintiffs as to be the moving force that caused the ultimate injury. 7. The Los Angeles County Sheriff is the final policymaker for Interrogatories to Plaintiff, Alissa Varnedoe, Set One, attached to Day Decl. as Exhibit "A". 6. Ninth Circuit Model Civil Jury Instruction 9.6. | pertaining to the Special Enforcement Alissa Bureau or the SWAT Team that caused any violation of Decedent Leroy Varnedoe or Plaintiffs. 6. Plaintiff failed to establish that an official with final policymaking authority caused the deprivation of the rights of Decedent and Plaintiffs as to be the moving force that caused the ultimate injury. 7. The Los Angeles County Sheriff is the final policymaker for pertaining to the Interrogatories to Plaintiff, Alissa Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Interrogatories Teste to Plaintiff Alissa Varnedoe's Responses to Defendant Sheriff Jim McDonnell's Special Interrogatories Teste One, attached to Day Decl. as Exhibit "B". 6. Plaintiff failed to establish that an official with final Policymaking authority caused the deprivation of the rights of Decedent and Plaintiffs as to be the moving force that caused the ultimate injury. 7. The Los Angeles County Sheriff is the final Policymaker for Plaintiffs, Alissa to Plaintiff, Alissa Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe, Set One, attached to Decl. as Exhibit "A". National Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe, Set One, attached to Decl. as Exhibit "A". Varnedoe, Set One, attached to Decl. as Exhibit "A". National Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe's Responses to Defendant Sheriff Interrogatories As Exhibit "A". National Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe's Responses to Defendant Sheriff Interrogatories As Exhibit "A". National Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe's Plaintiff Alissa Varnedoe's Responses to Defendant Sheriff Interrogatories As Exhibit "A". National Varnedoe, Set One, attached to Day Decl. as Exhibit "A". Varnedoe Sex Day Decl. as Exhibit "A". Varnedoe Sex Day |

| 1 | Uncontroverted Facts | Source | Plaintiff's | Plaintiff's |
|----|-------------------------------|------------------------------|-------------|-------------|
| | | | Response | Evidence |
| 2 | and law | 2002); <i>Streit v</i> . | | |
| 3 | enforcement | County of Los | | |
| 4 | purposes for the | Angeles, 236 | | |
| 4 | County of Los | F. 3d 552, 564 | | |
| 5 | Angeles. | (9 th Cir. 2001). | | |
| 6 | 8. Sheriff Jim | 8. Starr v. Baca, | | |
| ۱ | McDonnell has no | 652 F. 3d. | | |
| 7 | personal | 1202, 1207 | | |
| 8 | involvement in | (201 | | |
| | any alleged constitutional | | | |
| 9 | deprivation | | | |
| 10 | alleged in the First | | | |
| | Amended | | | |
| 11 | Complaint, and | | | |
| 12 | there is no causal | | | |
| 13 | connection | | | |
| 13 | between any | | | |
| 14 | alleged wrongful | | | |
| 15 | conduct by Sheriff | | | |
| | McDonnell and | | | |
| 16 | any constitutional | | | |
| 17 | violation of | | | |
| 10 | Decedent or | | | |
| 18 | Plaintiffs. | | | |
| 19 | | | | |
| 20 | | | | |
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| | DATED, March 14 2010 | HAROLD G. BECKS & ASSOCIATES |
|----|-----------------------|--|
| | DATED: March 14, 2018 | HAROLD G. DECKS & ASSOCIATES |
| 2 | | By: /s/ Douglas L. Day |
| 3 | | HAROLD G. BECKS |
| 4 | | DOUGLAS L. DAY Attorneys for Defendants |
| 5 | | Attorneys for Defendants COUNTY OF LOS ANGELES; SHERIFF JIM MCDONNELL; |
| 6 | | COMMANDER PATRICK MAXWELL; CAPTAIN JACK |
| 7 | | EWELL; SERGEANT SEAN BURKE; |
| 8 | | DEPUTY ANTHONY GEISBAEUER; DEPUTY JUAN RODRIGUEZ; |
| 9 | | DEPUTY EDSON SALAZAR; DEPUTY DONALD MCNAMARA; |
| 10 | | DEPUTY STEVEN PRATT; DEPUTY IAN STADE; DEPUTY DANIEL |
| 11 | | WELLE; AND DEPUTY JAMES WHEELER |
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PROOF OF SERVICE 1 Soares v. County of Los Angeles, et al. 2 USDC Case No.: 2:17-cv-00924 3 I am employed in the City of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 4 3250Wilshire Boulevard, Suite 708, Los Angeles, California 90010. 5 On March 14, 2018, I served the foregoing document described as: **DEFENDANTS' STATEMENT OF UNCONTROVERTED FACTS,** to all interested parties in this action by a true and accurate copy thereof, enclosed in 6 sealed envelopes, addressed as follows: 7 Tristan G. Pelayes, Esq. Armanda J. Parker, Esq. 8 WAGNER & PELAYES, LLP 9 1325 Spruce Street, Suite 200 Riverside, CA 92507 10 Tel: (951) 686-4800 Fax: (951) 686-4081 11 12 Attorney for Plaintiffs 13 [X] **BY ELECTRONIC E-FILING:** (IN COMPLIANCE WITH L.R.5-3-2.1) on 14 March 14, 2018, at my place of business. 15 (**FEDERAL**) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. 16 I declare that I am employed in the office of a member of the bar of this court **17** at whose direction the service was made. 18 Executed on March 14, 2018, at Los Angeles, California. 19 /s/ Sara Justice 20 Sara Justice 21 22 23 24 25 26 27 28